

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: David Noriega	Team: Team # 6	CCRB Case #: 200906214	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 04/19/2009 1:04 AM	Location of Incident: Saint Nicholas Avenue and West 113 Street	Precinct: 28	18 Mo. SOL 10/19/2010	EO SOL 10/19/2010	
Date/Time CV Reported Sun, 04/19/2009 12:00 AM	CV Reported At: Precinct	How CV Reported: In-person	Date/Time Received at CCRB Thu, 04/23/2009 2:20 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ian Abramowitz	00891	941307	028 PCT
2. POF Amey Kaminska	12955	941609	028 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Stephanie Troutman	28494	926226	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Ian Abramowitz	Discourtesy: PO Ian Abramowitz spoke discourteously to § 87(2)(b) and § 87(2)(b)	
B.POF Amey Kaminska	Force: PO Amey Kaminska used pepper spray against § 87(2)(b)	

Case Summary

This complaint was filed by § 87(2)(b) cousin of § 87(2)(b) in person at the 28th Precinct on April 19, 2009. § 87(2)(b) did not witness the incident. The complaint was referred to IAB on that same date, and subsequently referred to the CCRB on April 23, 2009.

On April 19, 2009, § 87(2)(b) was arrested after a verbal dispute and physical altercation with Officers Ian Abramowitz and Amey Kaminska of the 28th Precinct. The following allegations resulted from the incident:

- **Allegation A – Discourtesy:** PO Ian Abramowitz spoke discourteously to § 87(2)(b) and § 87(2)(b) § 87(2)(g)
- **Allegation B – Force:** PO Amey Kaminska pepper sprayed § 87(2)(b) § 87(2)(g)

Results of Investigation

Civilian Statements

Complainant: § 87(2)(b)

§ 87(2)(b) provided a phone statement on May 11, 2009 [Encl. C 5]. She was interviewed at the CCRB on May 27, 2009 [Encl. C 6-12]. § 87(2)(g)

On April 19, 2009, between 12:30 and 1:00 a.m., § 87(2)(b) was standing on the sidewalk on St. Nicholas Avenue north of West 113th Street in Manhattan, talking with her friend, § 87(2)(b) and her fiancée, § 87(2)(b) § 87(2)(b) stated that they were not being loud, boisterous, or otherwise conspicuous, that they were not blocking any pedestrian traffic, and that no other people were immediately present. § 87(2)(b) stated that none of them had been drinking. She added that, one to two hours prior, there had been some kind of dispute between several young people on a different corner of the same intersection. She remembered having seen officers respond to this incident and believed it to be resolved.

During this conversation, a marked police car parked directly in front of them, and three officers emerged, identified by the investigation as PO Ian Abramowitz, PO Amey Kaminska, and PO Stephanie Troutman. PO Abramowitz walked towards § 87(2)(b) § 87(2)(b) and § 87(2)(b) saying, “You didn’t fucking hear me? You didn’t hear what I fucking said? I told you to move!” § 87(2)(b) had not heard or noticed the officers before this point. The officers then asked the individuals to provide ID. All three complied, but § 87(2)(b) and § 87(2)(b) began to argue with the officers, saying they hadn’t done anything wrong. PO Abramowitz then directly approached § 87(2)(b) and attempted to place her under arrest; he grabbed her by the right wrist, but she yanked it away. This happened one more time, after which PO Abramowitz pepper sprayed § 87(2)(b) in the face. [The investigation determined that it was PO Kaminska, not PO Abramowitz, who pepper sprayed § 87(2)(b).] § 87(2)(b) stated that she never struck or was in any way physically hostile towards the officers.

§ 87(2)(b) was then placed inside an RMP and transported to the 28th Precinct stationhouse. Once there, PO Abramowitz and PO Kaminska told a supervisor (identified as Lieutenant Brian Kelly) that § 87(2)(b) had spit at and punched PO Abramowitz. § 87(2)(b)

§ 87(2)(b) and several other friends and family members of § 87(2)(b) s subsequently arrived at the stationhouse to file a complaint about the incident.

Witness: § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) was interviewed at her home at § 87(2)(b) in Manhattan on July 28, 2009 [Encl. C 13-16]. § 87(2)(g)

§ 87(2)(b) stated that there was a group of approximately five males standing on the sidewalk about three feet away from where she, § 87(2)(b) and § 87(2)(b) were standing; these males were listening to music and talking. § 87(2)(b) recalled hearing police officers saying something to these individuals from their vehicle; however, she did not pay attention, as she did not believe the words were directed at her.

§ 87(2)(b) stated that PO Abramowitz then approached saying, “Did you hear what the fuck I said? I said move!” PO Abramowitz also said, “You have one more warning: get the fuck off this block, or you guys are going to get arrested.” The aforementioned group of males dispersed at this point. § 87(2)(b) added that she and § 87(2)(b) protested by saying things along the lines of, “You’re not my father,” “If you want somebody to do something, *ask* them,” and “That’s not how you speak to people.”

§ 87(2)(b) stated that she and § 87(2)(b) provided the officers with ID, but that § 87(2)(b) refused to do so. PO Abramowitz responded by telling § 87(2)(b) that she would be arrested if she did not produce ID.

§ 87(2)(b) stated that she did not directly witness the moment at which § 87(2)(b) was pepper sprayed. However, she believed that PO Abramowitz was the officer who used the pepper spray, as he and § 87(2)(b) had been interacting immediately prior: she saw PO Abramowitz grab § 87(2)(b) s hand, then saw § 87(2)(b) yanking it away.

Attempts to Contact Civilians

§ 87(2)(b) missed an interview appointment with the undersigned at the CCRB on June 25, 2009. On July 28, 2009, the undersigned visited § 87(2)(b) s home, but § 87(2)(b) was absent.

On July 28, 2009, the undersigned canvassed the incident location for witnesses, speaking to employees and patrons of various surrounding businesses and distributing business cards. No witnesses were found.

NYPD Statement(s):

Subject Officer: PO IAN ABRAMOWITZ

- *White male, § 87(2)(b) old, 5’9”, 170 lbs., blonde hair, green eyes.*
- *28th Precinct robbery auto (conditions), with PO Kaminska, marked RMP, in uniform, 11:15 p.m. – 7:50 a.m. tour.*

Memo Book

PO Abramowitz had the following entries, verbatim, in his memo book [Encl. D 12-13]:
““0115: 10-50 @ W 113 st. + St. Nicholas Ave / 0120: 10-84, Female perp was asked 3x to disperse + refused, when a/o attempted place perp into custody perp spat in officers face + punched a/o in side of neck.”

CCRB Testimony

PO Abramowitz was interviewed at the CCRB on September 3, 2009[Encl. D 14-16]. He

stated that he and PO Kaminska responded to the incident location in regards to a radio dispatch for a disorderly group. When they arrived, there was a group of approximately 20 people standing on the sidewalk on St. Nicholas Avenue just north of West 113 Street. These individuals were collectively being loud and boisterous. Having been called to the scene to dissolve this crowd, the officers issued two orders to disperse over their RMP's loudspeaker. A majority of the group left the scene, but approximately 5 people stayed behind, among them § 87(2)(b). At this point, an additional police unit arrived on the scene, which PO Abramowitz believed consisted of PO Troutman and PO Bania.

After issuing one additional order to disperse over the loudspeaker, the above four officers emerged from their RMPs and approached the group on foot. PO Abramowitz clarified that their initial intention was simply to make the individuals leave, not to issue any summonses or make any arrests. To this end PO Abramowitz told the group, "You need to move," and added that someone had complained about them. The individuals refused to move and behaved defiantly, saying things along the lines of, "You don't have to talk to us like that. We're not children." The officers then asked the individuals for ID. All complied, save for § 87(2)(b) who told the officers "I'm not going to give you fucking nothing." PO Abramowitz told § 87(2)(b) that she would be arrested if she did not provide ID. PO Abramowitz articulated that § 87(2)(b)'s refusal to provide ID constituted grounds for arrest because she was guilty of a summonsable offense (refusing to disperse, i.e., disorderly conduct). § 87(2)(b) responded by saying, "Fuck you."

PO Abramowitz then attempted to grab § 87(2)(b)'s wrists in order to place her under arrest. § 87(2)(b) resisted by turning away, pulling her arms close to her person, and twisting her upper body. She then turned her head and spat towards PO Abramowitz, and began to lash out with her arms. § 87(2)(b) managed to land one punch on the right side of PO Abramowitz's neck. At this point, PO Kaminska pepper sprayed § 87(2)(b) in the face. Some of the pepper spray made contact with PO Kaminska's face (PO Abramowitz was not able to explain how). § 87(2)(b) continued to resist, and PO Abramowitz said it took 7 or 8 officers to effectively subdue her. PO Abramowitz could not recall who these officers were or when they arrived on the scene.

PO Abramowitz denied using any profanity upon approaching the individuals. Specifically, he denied saying, "You didn't fucking hear me," "Fucking move," or any similar statements. PO Abramowitz stated that, although he did not specifically recall doing so, he might have used profanity during his physical struggle with § 87(2)(b) saying, "Give me your fucking hand" or something along those lines. PO Abramowitz stated that, if he did use such profanity, he did so in order to issue a more forceful and more effective order to comply.

Subject Officer: PO AMEY KAMINSKA

- *White female, § 87(2)(b) old, 5'1", 117 lbs., § 87(2)(b) hair, hazel eyes.*
- *28th Precinct robbery auto, with PO Abramowitz, marked RMP, in uniform, 11:15 p.m. – 7:50 a.m. tour*

DOCUMENT STATEMENTS

PO Kaminska completed an OLBS worksheet [Encl. D 4-5] and a UF 61 [Encl. D 6-7] regarding this incident, both of which have the following narrative: "Defendant was gathered with a large group on a street corner for no legitimate purpose, obstruction the regular flow of pedestrian traffic. Defendant ignored multiple orders to disperse. Upon request for ID, defendant refused and flailed arms in a manner to prevent being handcuffed, and further punched an officer in the throat." The OLBS indicates that force, including pepper spray, was used to effect the arrest.

PO Kaminska also filed a criminal court complaint [Encl. D 8-9] reiterating this narrative,

adding that § 87(2)(b) refused to provide identification, and stating § 87(2)(b) screamed “I AIN’T GIVING YOU SHIT. I DON’T HAVE TO MOVE. THIS IS BULLSHIT. I CAN DO WHAT I WANT.” § 87(2)(b) was charged with Assault in the 3rd Degree, Resisting Arrest, and Disorderly Conduct.

CCRB TESTIMONY

PO Kaminska was interviewed at the CCRB on October 5, 2009 [Encl. D 10-11].

§ 87(2)(g)

PO Kaminska stated that the call that dispatched them to the scene was for a dispute, not a disorderly group. PO Kaminska further stated that the group of 20 people did not seem to be engaged in any kind of dispute or other unruly behavior; however, the officers ordered them to disperse anyway, as there had been a 911 complaint about them.

PO Kaminska stated that, in order to place her under arrest, PO Abramowitz grabbed § 87(2)(b)'s wrist twice, and both times § 87(2)(b) yanked her arm away. § 87(2)(b) then began to shove PO Abramowitz with two hands in the chest, and to twist her upper body and flail her arms in reaction to PO Abramowitz's attempts to cuff her. PO Kaminska attempted to help subdue § 87(2)(b) who then began to throw punches at PO Abramowitz. This compelled PO Kaminska to pepper spray her. PO Kaminska did not see § 87(2)(b) strike PO Abramowitz; however, PO Abramowitz later told her that she had managed to punch him in the neck, and she saw red marks at the point of impact.

PO Kaminska acknowledged that she was affected by the pepper spray, and did not see parts of the ensuing interaction. However, she stated that it was PO Troutman who eventually cuffed § 87(2)(b). She did not mention any other units arriving on the scene, nor did she mention that any other officers assisted in subduing § 87(2)(b).

PO Kaminska denied hearing PO Abramowitz use any profanity at any point during the course of the incident.

Witness Officer: PO STEPHANIE TROUTMAN

- *White female, § 87(2)(b) old, 5'6", 175 lbs., blonde hair, brown eyes.*
- *28th Precinct sector patrol, with PO Gobinjee Bania, marked RMP, in uniform, 11:15 p.m. –7:50 a.m. tour.*

CCRB TESTIMONY

PO Troutman was interviewed at the CCRB on August 20, 2009 [Encl. D 24-25].

Unlike PO Abramowitz and PO Kaminska, PO Troutman stated that she and PO Bania arrived on the scene once the incident had already commenced. Upon arrival, PO Troutman observed PO Abramowitz and PO Kaminska struggling with § 87(2)(b) who was twisting her upper body around and pulling her arms forward to avoid being handcuffed. One of § 87(2)(b)'s wrists was already cuffed. PO Troutman immediately interfered: she grabbed one of § 87(2)(b)'s wrists and placed it behind her back, allowing PO Abramowitz to grab the other and secure the handcuffs. PO Troutman did not see § 87(2)(b) strike any officers. PO Troutman also did not see § 87(2)(b) get pepper sprayed; however, she recalled hearing from PO Kaminska that she had been affected by pepper spray that had been discharged before her arrival. PO Troutman did not know which officer used the pepper spray.

PO Troutman added that she recalled the night of April 19, 2009 as being extremely busy, with large numbers of people on the street and several backed-up jobs throughout the tour. For this reason, PO Troutman could not fully recall how many people were in the area during the course of the incident.

NYPD Documents

On April 19, 2009, at 12:05 a.m., a female named § 87(2)(b) called 911 to report a large group of 50 to 75 people occupying the intersection of West 113 Street and St. Nicholas Avenue in Manhattan [Encl. C 1]. She stated that the individuals were “hitting each other” and “taking over the street.” The corresponding SPRINT [Encl. E 1-4] indicates that although the call came through at 12:05 a.m., no units were dispatched to the scene until 12:54 a.m.

Summons/Arrest for Incident and Disposition

- Case number § 87(2)(b) remains open [Encl. F 2-3]. The next scheduled court date is § 87(2)(b) in Manhattan Criminal Court.

Civilian(s) Criminal History

§ 87(2)(b)
§ 87(2)(b)
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§ 87(2)(b)
§ 87(2)(b)

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) [Encl. B 3-4].

Subject Officer CCRB History

- PO Ian Abramowitz has been a member of the service for 3 years and there are no substantiated CCRB allegations against him [Encl. B 1].
- PO Amey Kaminska has been a member of the service for 3 years and there are no substantiated CCRB allegations against her [Encl. B 2].

Conclusion

Identification of Subject Officers

§ 87(2)(b) identified PO Abramowitz by name, and her claims of discourtesy were leveled directly at him. Therefore, the discourtesy allegation is pleaded against PO Abramowitz.

Although § 87(2)(b) alleged that it was PO Abramowitz who pepper sprayed her, PO Kaminska admitted to using the pepper spray, which PO Abramowitz corroborated. Therefore, the pepper spray allegation is pleaded against PO Kaminska.

Investigative Findings and Recommendations

Allegation A – Discourtesy: PO Ian Abramowitz spoke discourteously to § 87(2)(b)

§ 87(2)(b) and § 87(2)(b)

PO Abramowitz stated that he might have used profanity during the course of his struggle with § 87(2)(b) § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g) § 87(2)(b) claimed PO Abramowitz approached saying, “You didn’t fucking hear me? You didn’t hear what I fucking said? I told you to move!” § 87(2)(b) in contrast, claimed: “Did you hear what the fuck I said? I said move!” Furthermore, PO Abramowitz corroborated much of the descriptions of the verbal interaction provided by § 87(2)(b) and § 87(2)(b) while omitting the actual discourtesies on his part. For instance, he recalled hearing, “You don’t have to talk to us like that. We’re not children.” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Force: PO Amey Kaminska pepper sprayed § 87(2)(b)

The SPRINT corresponding to this incident indicates that there was a lag of approximately one hour between the moment of § 87(2)(b)’ 911 call and the dispatching of a police unit to the scene. This is consistent with PO Troutman’s description of the night as extremely busy. § 87(2)(g)

§ 87(2)(g)

In § 87(2)(b)’s version of events, PO Abramowitz unnecessarily pepper sprayed her after a minor and non-threatening act of resistance (pulling her hand back upon his attempt to arrest her, which was, in her view, baseless in itself). However, PO Kaminska admitted to using the pepper spray against § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) claimed that she, § 87(2)(b) and § 87(2)(b) were the only people present on the sidewalk at the moment of the officers’ approach. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

Patrol Guide Procedure 212-95 [Encl. A 1-4] states that an officer may use pepper spray when he or she “reasonably believes it is necessary to effect an arrest of a resisting suspect, for self-defense or defense of another from unlawful force.” § 87(2)(g)

[REDACTED]

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date